

MEMORANDUM FOR:

SUBJECT :

1. If the negligent operation of a Government-owned or leased vehicle results in personal injury or property damage then, under some circumstances, the Government, the driver, and the person who has custody of the car at the time of the occurrence may all be liable.

2. The Government cannot normally be sued without its consent. However, in the Federal Tort Claims Act, the Government ~~has~~ <sup>granted</sup> its permission to be sued in this type of case. The person who has suffered injury or damage may sue any or all of those liable. If he chooses to sue the Government, (which is likely in most cases since the Government clearly has the money to pay any judgment that may be obtained,) then by the terms of the Act a judgment against the Government bars him from proceeding against any other person who might have been liable initially. If the claim is for less than \$1,000 it is not necessary for him to sue. The head of the department or agency concerned has the authority to pay the claim directly; such payment, like a judgment, will bar the claimant from suing anyone else.

3. There are cases, however, <sup>to</sup> which the Federal Tort Claims Act does not apply. If the Act does not apply, then the claimant can obtain satisfaction only by suing the driver or, in those jurisdictions where he is ~~permitted~~ <sup>permitted</sup> to do so, by suing the person who had custody of the car at the time of the occurrence. The most common situations in which the Act would not apply and in

which, therefore, individual Government employees might be liable are these:

a. Where the claim arises outside the United States.

b. Where the claim arises from an occurrence ~~that~~ <sup>happened</sup> over two years in the past, so that the limitations <sup>provision</sup> ~~section~~ of the Act precludes suit against the Government.

c. Where the claim <sup>arises</sup> ~~arise~~ from the act of the employee outside the scope of his employment (e.g., an employee utilizing a quasi-personal car on personal business).

4. It is apparent from the foregoing that the possibility does exist that employees who drive or have custody of Government vehicles may find themselves personally liable in a suit for damages. The usual automobile insurance policy does not cover all of these situations. It is <sup>therefore</sup> ~~then~~ advisable for such an employee to secure adequate insurance coverage. It is possible to secure a <sup>rider</sup> ~~writer~~ to your present automobile policy which will provide such coverage. <sup>One</sup> insurance company which caters especially to Government employees offers such a rider at a very low cost. <sup>delete?</sup> An individual who does not own a private automobile may secure a special type of insurance known as a <sup>named</sup> ~~named~~ non-owner policy which offers protection to persons who do not own <sup>an</sup> ~~automobiles~~ but who do have access to Government ~~owned~~ vehicles.

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